



ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

Jonathan Askin
General Counsel

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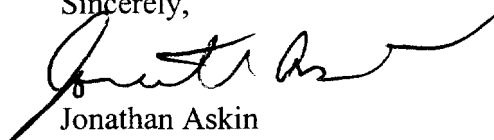
Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: In the Matter of Numbering Resource Optimization, CC Docket No. 99-200

Dear Ms. Salas:

Please find attached an original and four copies of the Comments of the Association for Local Telecommunications Services with regard to the Commission's Further Notice of Proposed Rulemaking in the above-referenced proceeding.

Sincerely,


Jonathan Askin
General Counsel

cc: Jeannie Grimes (diskette and cover letter only)
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Before the
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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Numbering Resource Optimization)

CC Docket No. 99-200

TO: The Commission

**COMMENTS OF THE ASSOCIATION FOR
 LOCAL TELECOMMUNICATIONS SERVICES**

The Association for Local Telecommunications Services ("ALTS") hereby files its comments to the Federal Communications Commission's ("FCC" or "Commission") *Further Notice of Proposed Rulemaking* released on March 31, 2000 in the above-captioned proceeding.¹ ALTS is the leading national trade association representing facilities-based competitive local exchange carriers ("CLECs").

The *FNPRM* asks for further comment on utilization thresholds for non-pooling carriers, and market-based pricing for numbering resources.² ALTS carriers have been working diligently at the state and federal levels to ease the numbering crisis through participation in the development and implementation of number optimization policies and procedures. Number scarcity caused by inefficient utilization has a greater adverse effect on providers that are trying to win customers rather than on providers that already have a large customer base, thus ALTS members will, along with consumers, be the major benefactors of efficient number utilization. ALTS therefore welcomes the

¹ *In the Matter of Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 00-104 (rel. March 31, 2000) ("*Report and Order*" or "*FNPRM*").

² The *FNPRM* also seeks further comment on the implementation of pooling by non-LNP capable carriers, and recovery of number pooling costs. ALTS is not commenting on these issues.

decisions in the *Report and Order* that further national number optimization efforts, through the institution of nationwide thousands block pooling and more effective national administrative guidelines. These measures will require carriers to fundamentally alter their existing number administration systems and business practices, and considerable cost and effort will be expended by carriers to comply with the new requirements. The payback should be worth it though -- there is substantial reason to believe that these measures can ease the numbering crisis, thereby allowing the competitive local exchange market to continue to introduce new services and technologies without being chilled by a lack of available numbering resources. In the midst of these major changes, however, ALTS urges the Commission in this further proceeding to take a judicious approach when considering additional measures such as a market-based pricing approach for numbering resources and overly-stringent utilization threshold criteria for obtaining growth numbers.

I. UTILIZATION THRESHOLDS

In its *Report and Order*, the Commission adopted a nationwide utilization threshold that non-pooling carriers must meet, beginning January 1, 2001, before they receive a growth code.³ The Commission further determined that “the utilization level in a given geographic area (NPA or rate center) should be calculated by dividing all *assigned numbers* (numerator) by total numbering resources assigned to that carrier in the appropriate geographic region (denominator), and multiplying the result by 100.”⁴ However, recognizing that most of the utilization levels suggested in comments filed in

³ *Report and Order* ¶ 115.

⁴ *Id.* ¶ 109.

the proceeding included additional categories besides *assigned numbers* in the numerator, the *FNPRM* seeks comment on specific utilization threshold(s).⁵

For the most part, ALTS members expect to be pooling carriers wherever pooling has been implemented by state order or as part of the national pooling rollout schedule, and as such would not be subject to utilization thresholds to obtain growth numbering resources. However, since widespread pooling will now be delayed pending the selection of a Pooling Administrator, ALTS members will be subject to utilization thresholds at least for the period of time between January 1, 2001 and the onset of pooling in an area.

In its Initial Comments filed in this proceeding,⁶ ALTS did not support the imposition of utilization thresholds at this time, citing numerous practical difficulties and adverse competitive impacts. Nevertheless, ALTS fully supports the goal of making growth codes available to carriers only when a sufficient need exists. Unfortunately, the determinations in the *Report and Order* may make it impossible for a carrier to demonstrate a legitimate need for growth codes because the required calculation formula fails to take into account potentially large volumes of numbers a carrier may have assigned (and have no control over) in the *intermediate numbers* category. In setting specific utilization thresholds, the Commission should permit carriers to count all numbers that have been assigned to customers in their calculation of an assigned numbers percentage. In addition, the Commission should specify that utilization

⁵ *Id.* ¶ 248.

⁶ Initial Comments of ALTS, *Numbering Resource Optimization*, CC Docket No. 99-200, filed July 30, 1999, at 9-12.

thresholds should only be calculated on a rate center basis, and never on a NPA-wide or nationwide basis, for as long as numbers are assigned at the rate center level.

In establishing a calculation formula for determining a carrier's number utilization, the Commission reasoned that counting only those numbers that fall within the Commission's new definition of *assigned numbers*⁷ "provides a more accurate representation of numbers used to serve customers."⁸ In deciding on this formula, the Commission determined to exclude in particular from the numerator, all *intermediate numbers*, which were defined as "numbers that are made available for use by another carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer."⁹

Excluding all "intermediate" number assignments from a carrier's utilization calculation may cause significant distortions, and prevent a carrier with insufficient numbering resources from obtaining additional resources. It is a common business practice when serving high-volume customers to assign large blocks of numbers, or even entire NNX codes, for that customer to manage and assign as needed. Examples of these types of customers include hospitals, universities, businesses with large campuses, state and federal government, and Internet Service Providers. When a carrier makes an assignment to one of these customers, the numbers are assigned from the carrier's perspective – the carrier no longer maintains those numbers in its inventory of available numbers. The carrier has no visibility to whether any individual number within the assignment is serving an end user at a given point in time. The

⁷ *Id.* ¶ 16.

⁸ *Id.* ¶ 109.

⁹ *Id.* ¶ 21.

numbers are not held in any sort of “intermediate” inventory from which the carrier may make alternate assignments. In short, the carrier has no visibility to or control over many assignments that would fall in the *intermediate number* category.¹⁰

Yet despite having no control over or access to these numbers, the Commission’s formula would allow these number assignments to count as “assigned” only if a carrier can obtain actual utilization data from its customer on a regular basis and incorporate the data into the carrier’s utilization threshold calculations. Carriers have never before had reason to request or require such data from customers, and customer contracts do not contain requirements that customers provide such data. Yet now a carrier’s ability to obtain additional growth codes may depend on receiving such data from its large customers. Lacking the data, a carrier may be unable to show sufficient utilization levels, even though the carrier may have no additional numbers to assign to new customers.

To use an example, carrier ABC has 3 NXXs (30,000 numbers) in a rate center. Two of the NXXs are assigned to individual end users and have 80% utilization (16,000 numbers assigned). The third NXX was assigned to a state government office, which in turn assigns the individual numbers to employees. If carrier ABC is unable to obtain usage information from the government customer, then its utilization level for that rate

¹⁰ The *Report and Order* specifies numbers provided for use by resellers, numbers in dealer numbering pools, numbers preprogrammed into customer premises equipment, and numbers assigned to unified messaging service providers as examples of intermediate numbers. However, the FCC broadened the scope to include “all numbers controlled or made available to an end user customer by a carrier or non-carrier entity other than the code or block holder.” *Report and Order* ¶ 21 (emphasis added). Thus, the category would seem to include virtually all assignments to large customer entities that manage their number assignments in the course of their internal business practices.

center would have to be reported as 53%, which may be insufficient (depending on what level is set) to obtain the needed growth code.

Even assuming a carrier were to establish and enforce a mandatory reporting process between it and all of its largest customers, a carrier has no control over the assignment practices of its customers. For example, a carrier may obtain an NXX block at the request of a large customer and assign it to the customer. Now assume the customer reports only 40% utilization. The carrier may have no other numbers available for assignment to new customers, but would be unable under the utilization formula to obtain new resources, because of the utilization practices of one of its customers.

Clearly, all carriers and end users would benefit if all participants used resources equally efficiently. However, carriers at this time have neither the ability, nor the authority under their contracts, to micro-manage the number utilization practices of all of their customers. Until such time as the carriers and customers work out new arrangements and contracts, it is unreasonable to prevent a carrier from counting all of its number assignments to customers as “assigned numbers” for the purpose of calculating its utilization levels. Alternately, if the *intermediate numbers* category as currently defined is to be excluded from the utilization rate formula, then the utilization thresholds should be reduced to take into account the distortion caused by exclusion of these numbers.

Additionally, the Commission should specify that utilization thresholds should only be calculated on a rate center basis, and never on a NPA-wide or nationwide basis, for as long as numbers are assigned at the rate center level. The *Report and Order* is unclear as to whether the formula for calculating utilization levels would be applied to

utilization at the rate center level. The rule adopted for calculating utilization levels does not specify whether the inventory to be counted is a carrier's rate center, NPA, or nationwide inventory.¹¹ Further, the *FNPRM* suggests that a nationwide utilization threshold for growth numbering resources should be set.¹² On the other hand, the *FNPRM* proposes additionally to require carriers to meet a specific rate center-based utilization threshold for the rate center in which it is seeking additional numbering resources.¹³

Whatever the correct interpretation of the *Report and Order*, ALTS submits that the only fair and appropriate factor to use in determining the merits of a carrier's request for additional numbers in a rate center is the carrier's utilization level in that rate center. A carrier may only use numbering resources in the rate center for which the resources were requested and assigned. The fact that a carrier may have available resources in one rate center is irrelevant to the carrier's request for growth numbers in another rate center because the unused numbers are not available for use in the rate center in which the carrier has insufficient numbers. As the Commission is well aware, demand characteristics vary widely among different rate centers, NPAs, and states. Requiring carriers to aggregate utilization data from multiple areas in order to justify the need for resources in a particular rate center could lead to severe limitations on a nationwide carrier's ability to obtain necessary numbering resources, and serve as a disincentive for carriers considering service to smaller population areas or residential customers.

¹¹ §52.15 (g)(3)(ii) provides in part: "The numbering resource level shall be calculated by dividing all *assigned numbers* by the total numbering resources in the applicant's inventory and multiplying the result by 100."

¹² *Report and Order* ¶ 248.

¹³ *Id.*

II. PRICING FOR NUMBERS

The *FNPRM* seeks further comment on how a market-based allocation system for number resources could be implemented. Specifically, the Commission seeks comment on how a market-based allocation system would affect the efficiency of allocation of numbers among carriers.¹⁴

ALTS was among the substantial majority of commentators that opposed a price-based number allocation system. From a competitive perspective, charging carriers for numbers, and especially instituting a market-based approach where the price of numbers would rise as exhaust nears, would put well-capitalized companies with a good cash flow in a significantly advantageous position *vis a vis* smaller, less capitalized competitors. When ability to pay, rather than need for numbers, becomes the criterion for obtaining numbers, an incumbent provider will have a powerful weapon to keep new entrants from entering or succeeding in the marketplace. Such a result is obviously and directly contrary to the Commission's goal of ensuring that "all carriers have access to the numbering resources they need to compete in the rapidly growing telecommunications marketplace."¹⁵

Moreover, a market-based allocation system would not affect the efficiency of the allocation of numbers among carriers because it would not address the underlying inefficiencies in the current number allocation scheme. As the Commission has recognized, the root causes of the current inefficiencies in allocation are (1) the allocation of numbers in blocks of 10,000, and (2) the requirement for separate NXX

¹⁴ *Id.* ¶ 251.

codes in the multitude of rate centers. Putting a price on numbers will not do anything to address these fundamental problems – it will simply put the available numbers in the hands of the highest bidder. The fact that there’s a price for numbers won’t affect the need for every new wireline carrier to obtain a 10,000 number block for every rate area it intends to serve – it will just mean that fewer carriers will be able to meet the increased entry hurdle. Putting a price on numbers won’t mean numbers will be put to their “highest and best use” in society – it will just mean that the carriers and end users with the most money or highest profit margins will have preference over other carriers and end users. Moreover, putting a price on numbers will likely increase the costs of phone service to consumers as carriers pass that charge through on their end-user bills.

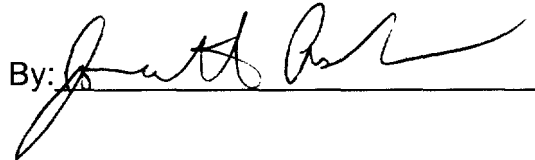
ALTS urges the Commission to stay focused on addressing the root causes of inefficient number allocation, and allow the industry to devote its human and capital resources to implementing optimization measures such as thousands block number pooling. At the very least, these measures should be allowed to take effect and be evaluated before embarking on a highly problematic and risky market-based number resource allocation scheme.

¹⁵ *Id.* ¶ 1.

III. CONCLUSION

ALTS welcomes the decisions in the *Report and Order* that further national number optimization efforts, through the institution of nationwide thousands block pooling and more effective national administrative guidelines. In the midst of these major changes however, ALTS urges the Commission in this further proceeding to take a judicious approach when considering additional measures such as a market-based pricing approach for numbering resources and overly-stringent utilization threshold criteria for obtaining growth numbers.

Respectfully submitted

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